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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,884	12/02/2003	Juan Jesus Burdeniuc	06307P USA	2438

23543 7590 07/18/2005

AIR PRODUCTS AND CHEMICALS, INC.  
PATENT DEPARTMENT  
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ALLENTOWN, PA 181951501

EXAMINER

COONEY, JOHN M

ART UNIT PAPER NUMBER

1711

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/724,884

**Applicant(s)**

BURDENIUC ET AL.

**Examiner**

John m. Cooney

**Art Unit**

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

The finality of the previous Office action is hereby withdrawn.

Applicants' properly filed Terminal Disclaimer overcomes the previous rejection. However, the following new grounds of rejection are set forth below in light of new considerations.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,737,446 in view of Arai et al.(4,617,286). The claims of 6,737,446 alone or with aid of the supporting disclosure for definition recite the methods as claimed but differ in that they lack requirement for acid blocking the catalysts employed. However, Arai et al.(see column 1 lines 7-10 and column 3 lines 4-10, as well as, the entire document)

discloses acids to be well known in the urethane amino catalyst art for their delay properties. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the acid blockers of Arai et al. in the methods of the claims of 6,737,446 for the purpose of imparting a delay effect in order to arrive at the processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Claims 1-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,759,447 in view of Arai et al.(4,617,286). The claims of 6,759,447 alone or with aid of the supporting disclosure for definition recite the methods as claimed but differ in that they lack requirement for acid blocking the catalysts employed. However, Arai et al.(see column 1 lines 7-10 and column 3 lines 4-10, as well as, the entire document) discloses acids to be well known in the urethane amino catalyst art for their delay properties. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the acid blockers of Arai et al. in the methods of the claims of 6,759,447 for the purpose of imparting a delay effect in order to arrive at the processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

Claims 1-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No.

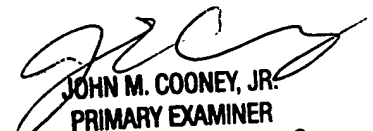
6,762,211 in view of Arai et al.(4,617,286). The claims of 6,762,211 alone or with aid of the supporting disclosure for definition recite the methods as claimed but differ in that they lack requirement for acid blocking the catalysts employed. However, Arai et al.(see column 1 lines 7-10 and column 3 lines 4-10, as well as, the entire document) discloses acids to be well known in the urethane amino catalyst art for their delay properties. Accordingly, it would have been obvious for one having ordinary skill in the art to have employed the acid blockers of Arai et al. in the methods of the claims of 6,762,211 for the purpose of imparting a delay effect in order to arrive at the processes of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

It is recommended, if applicants intend to submit Terminal Disclaimers to overcome the above rejections, that applicants list the 3 patents in one Terminal Disclaimer in order to ensure that all disclaimers are incorporated into the electronic file in a timely fashion, as well as, to enable only one fee being charged. All requirements for the filing of proper Terminal Disclaimers must still be followed in order for the Terminal Disclaimers to be considered proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOHN M. COONEY, JR.  
PRIMARY EXAMINER  
Group 1700